

DELTA PROTECTION COMMISSION

14215 RIVER ROAD
P.O. BOX 530
WALNUT GROVE, CA 95690
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February 23, 1996

**NOTICE OF PROPOSED ADOPTION OF
REGULATION GOVERNING SITING OF
NEW SEWAGE TREATMENT FACILITIES AND AREAS FOR DISPOSAL OF
SEWAGE EFFLUENT AND SEWAGE SLUDGE IN
THE PRIMARY ZONE OF THE SACRAMENTO-SAN JOAQUIN DELTA**

NOTICE IS HEREBY GIVEN that the Delta Protection Commission proposes to adopt a regulation governing local government authorization of new sewage treatment facilities and areas for disposal of sewage effluent and sewage sludge in the Primary Zone of the Sacramento-San Joaquin Delta. This action is part of the Commission's planning activities which are undertaken in accordance with the provisions of the Delta Protection Act of 1992, and to implement and make more specific the provisions of that Act, Public Resources Code sections 29700 et seq, and specifically sections 29752 and 29760.

The Commission's planning activities include the preparation and adoption of the Delta resource management plan, and amendments thereto, and the Commission's review and approval of local general plan amendments proposed to comply with the Delta plan and Delta Protection Act. The proposed regulation will direct local governments to protect natural resources of the Primary Zone of the Delta by insuring that the location of utilities and infrastructure land uses consisting of new sewage treatment facilities and sites for disposal of sewage effluent and sewage sludge shall be located outside of the Delta Primary Zone (NOTE: disposal includes discharge, placement for final disposal, and land application).

A written comment period has been established commencing February 23, 1996, and terminating on April 8, 1996.

Any interested person may present written comments concerning the proposed regulation. Comments must be received no later than April 8, 1996, by Margit Aramburu, Executive Director, Delta Protection Commission, either at P.O. Box 530, Walnut Grove, California, 95690, or at the hearings identified below.

The Commission will hold three public hearings to receive public testimony on this matter on: Thursday, March 28, 1996, at 6:30 p.m. at the Jean Harvie Community Center, 14273 River Road, Walnut Grove, California; Thursday, April 4, 1996, at 10:00 a.m. at the Roberts Island Union Farm Center, 4925 W. Howard Road, Roberts Island (west of Stockton); and Monday, April 8, 1996, at 10:00 a.m. in the Theater at the Antioch Community Center, 213 F Street, Antioch.

The Commission will consider adoption of the proposed regulation at the Commission's regularly scheduled meeting on Thursday, April 25, 1996, at 6:30 p.m. in the Jean Harvie Community Center, 14273 River Road, Walnut Grove, California.

If, after receiving public comments the Commission decides to amend the proposed regulation to incorporate minor, non-substantive changes, the full text of the revised regulation will be made available for at least 15 days prior to the date on which the agency adopts the resulting regulation. If the Commission proposes substantive changes to the language of the regulation, the Commission will re-notice the proposal and will designate an additional period for written comments.

Copies of the proposed regulation may be obtained from Margit Aramburu, Executive Director, P.O. Box 530, 14215 River Road, Walnut Grove, California, 95690, (916) 776-2290. A statement of the reasons for the proposed regulation has been prepared and the Commission has available the proposed regulation and the information upon which it is based, which will be available for review at the Commission's office during normal business hours. Any inquiries concerning the proposed regulation should be directed to Margit Aramburu, Executive Director, at the above address and phone number.

A staff report will be made available upon request from Margit Aramburu, Executive Director, at the above address and phone number. The staff materials include the analysis required under the California Environmental Quality Act and the Commission's regulations governing environmental review for Delta Protection Commission planning activities.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

The Delta Protection Act of 1992 creates the Delta Protection Commission, a 19-member entity with certain land use planning responsibilities concerning the Sacramento-San Joaquin Delta. Among its statutory duties, the Commission is directed to develop a comprehensive long-term resource management plan for land uses within the primary zone of the Delta, and is directed to review and approve local general plan amendment proposals to implement the Delta resource management plan.

The regulation currently proposed by the Commission would establish a land use policy to be adopted and implemented by the local governments regarding location of new sewage treatment facilities and areas for disposal of sewage effluent and sewage sludge. The Commission is authorized to adopt regulations to govern its procedures (Public Resources Code section 29752).

The effect of the proposed regulation would be to preclude construction of new sewage treatment facilities and placement of sewage effluent and/or sewage sludge in the Primary Zone of the Delta. The proposed regulation would protect natural resources, including soils, water, wildlife habitat, and wildlife, by protecting them from inappropriate and incompatible land uses as an integral part of the Commission's planning program.

Federal regulations have been adopted which set minimum standards governing the use and disposal of sewage effluent and sewage sludge on the lands of the United States (40 Code of Federal Regulations, Part 503). Those federal regulations are not comparable to the Commission's proposed regulation. In addition, those regulations recognize the authority for local and state governments to develop and to adopt regulations to address local conditions and local issues of health, safety, and welfare.

The proposed action may affect small agricultural businesses to the extent that such businesses located in the Delta Primary Zone would be precluded from using sewage effluent and sewage sludge as soils additives or fertilizer. Many other readily-available materials have been approved and are commonly available for use by agricultural businesses. Thus, the proposed regulation would not preclude any on-going agricultural activities, and is designed to protect resource values of Delta agricultural lands for long-term use for agriculture.

MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS

The Delta Protection Commission has determined that this proposal would impose no mandate on school districts; the proposal would impose a mandate on local agencies. The mandate would not require state reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4.

ESTIMATE OF COSTS OR SAVINGS TO ANY STATE AGENCY, LOCAL AGENCY OR SCHOOL DISTRICT THAT IS REQUIRED TO BE REIMBURSED UNDER PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4) AND OTHER NONDISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES AND COST OR SAVINGS IN FEDERAL FUNDING TO THE STATE

Cost or savings to any state agency: None.

Cost or saving to any local agency or school district in which reimbursement is required under part 7 (commencing with section 17500) of Division 4 of the Government Code: None.

Other nondiscretionary costs or savings imposed on local agencies: There may be added costs or savings to local governments, such as sewage districts, for costs of transportation of sewage effluent or sewage sludge if that material must be transported a longer or shorter distance from the point of origin.

Costs or savings in federal funding to the state: None.

DETERMINATION THAT THE PROPOSED ACTION WILL NOT HAVE A SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The Commission has determined that the adoption of the proposed regulation would not have a significant adverse economic impact on business, including the ability of California businesses to compete with businesses in other states. In making this determination, the Commission evaluated impacts two types of business: agriculture, and effluent and sludge disposal. The purpose of the regulation is to protect long-term viability of agricultural lands in the Primary Zone of the Delta by precluding placement of materials that may result in accumulation of metals, salts, and other materials. In addition, many buyers of agricultural products have notified Delta Primary Zone farmers that no products will be purchased if grown on lands where sewage effluent and/or sewage sludge have been placed. The effluent and sludge disposal businesses will continue to have access to adequate sites to appropriately and cost-effectively dispose of such materials. The State of California includes 100,000,000 acres; the proposed regulation would preclude placement on 450,000 acres, or about four and one half percent of the State of California. San Joaquin County, which makes up approximately 40 percent of the Delta Primary Zone, has already precluded placement of sewage effluent and/or sludge in the Delta Primary Zone lands within the County by adopting such a General Plan policy.

The proposed regulation is available in plain english from the contact person named in this notice.

STATEMENT OF THE POTENTIAL COST IMPACT OF THE PROPOSED ACTION ON PRIVATE PERSONS OR BUSINESSES DIRECTLY AFFECTED

The potential cost impact to agricultural business is minimal in that agricultural businesses will simply continue to operate as they do currently. Effluent and/or sludge disposal companies may incur slightly higher or lower transportation costs if materials must be transported farther or closer from a point of origin.

ANALYSIS OF POTENTIAL COST IMPACTS TO SMALL BUSINESSES AND INDIVIDUALS

The potential cost impact to small agricultural businesses would be minimal in that agricultural businesses will simply continue to operate as they do currently. Effluent and/or sludge disposal companies, which may include small businesses, may incur slightly higher or lower transportation costs if materials must be transported farther or closer from a point of origin. The impact to individuals would be minimal.

EFFECTS ON HOUSING COSTS

The action would not have a significant effect on housing costs.

ALTERNATIVES CONSIDERED

The Commission must determine that no alternative considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons than the proposed action.

ASSESSMENT REGARDING JOB AND BUSINESS CREATION OR ELIMINATION

The adoption of the proposed regulation will neither create or eliminate jobs or businesses in the State of California, nor result in the elimination of existing businesses, nor create or expand businesses in the State of California.

STATEMENT OF REASONS
SUPPORTING ADOPTION OF REGULATION

DELTA PROTECTION COMMISSION

The Delta Protection Act of 1992 creates the Delta Protection Commission, a 19-member entity with certain land use planning responsibilities concerning the Sacramento-San Joaquin Delta. Among its statutory duties, the Commission is directed to develop a comprehensive long-term resource management plan for land uses within the primary zone of the Delta, and is directed to review and approve local general plan amendment proposals to implement the Delta resource management plan.

The regulation currently proposed by the Commission would establish a land use policy to be adopted and implemented by local governments with jurisdiction in the Delta Primary Zone regarding location of new sewage treatment facilities and areas for disposal of sewage effluent and sewage sludge in the Delta Primary Zone. The Commission is authorized to adopt regulations to govern its procedures (Public Resources Code section 29752).

The effect of the proposed regulation would be to preclude construction of new sewage treatment facilities and placement of sewage effluent and/or sewage sludge in the Primary Zone of the Delta. The proposed regulation would protect natural resources, including soils, water, wildlife habitat, and wildlife, by protecting them from inappropriate and incompatible land uses as an integral part of the Commission's planning program.

In drafting the proposed regulation, the Commission considered a variety of factors and sources of information. In addition the Commission received numerous comments from the general public and landowners in the Primary Zone of the Delta related to the Commission's adoption of its Land Use and Resource Management Plan; those comments were also considered.

Some of the factors considered include the following:

1. Soils and Hydrology. Due to unique soil conditions and hydrology, much of the Primary Zone is at constant risk of flooding and/or inundation. The Delta has been described as a mat of peat soil floating atop a large pool of water. Much of the Delta is below sea level and is protected by levees from daily inundation. Many areas of the Delta must be vigorously drained and pumped to keep the groundwater table below the surface of the land and to avoid flooding. This means most of the Primary Zone is subject to flooding if such pumping were to cease. There have been repeated levee breaks in the Delta, with two small islands flooding as recently as 1995. Levee

breaks can result from various causes including overtopping, erosion by floodwater, weak spots (beaver burrows, fallen tree root balls), and others. The Delta levees are also susceptible to failure due to seismic activity. In the case of a levee break or rising groundwater soon after placement of sewage effluent and/or sewage sludge, flood waters would carry off materials placed on the island's surface and contaminate significant other land and water areas.

2. **Drinking Water.** Approximately two-thirds of the population of the State of California receives at least some of its drinking water from the water exported from the Delta. There is a constant effort to maintain and/or to improve the water quality in the Delta waterways through control over urban nonpoint discharges, close monitoring of urban wastewater discharges into the Delta, testing and monitoring of pesticide discharges from agricultural drains, etc. Land application of sewage effluent and/or sewage sludge in the Primary Zone of the Delta poses risks of adverse impacts to water quality from the potential escape or release of sewage effluent, sewage sludge, or associated contaminants into the Delta water "pool".

3. **Potential Adverse Impacts on Delta Agricultural Lands.** Placement of sewage effluent and/or sewage sludge results in placement of materials containing salts, metals, and other contaminants on a site. These materials are not removed during secondary or tertiary treatment of sewage. These materials may build up over time resulting in cumulative adverse impacts to cultivated crops and wildlife habitat due to bioaccumulation, concentration of metals, and increased salinity.

4. **Wildlife Habitat on Agricultural Lands.** Lands and waters in the Primary Zone of the Delta serve as year round and seasonal wildlife habitat. Many thousands of acres of land used for row crops are flooded in the late fall and winter for habitat for shorebirds, migratory ducks and geese, sandhill cranes, and others. Wildlife and wildlife habitats could be adversely affected by sewage effluent and/or sewage sludge application in the Primary Zone of the Delta.

PROPOSED
DELTA PROTECTION COMMISSION REGULATION
FOR
LOCATION OF NEW SEWAGE TREATMENT FACILITIES AND
AREAS FOR DISPOSAL OF SEWAGE EFFLUENT AND SEWAGE SLUDGE

Title 14, California Code of Regulations, Chapter 3:

Section 20030: New sewage treatment facilities (including storage ponds) and areas for disposal of sewage effluent and sewage sludge shall not be located within the Delta Primary Zone.
[Note: The Rio Vista project, as described in the adopted Final Environmental Impact Report for such project, and the Ironhouse Sanitary District use of Jersey Island for disposal of treated wastewater and biosolids are exempt from this policy.]

Authority: Public Resources Code section 29752.

Reference: Public Resources Code sections 29760, 29763, and 29763.5.

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ESTIMATE OF COSTS OR SAVINGS TO ANY STATE AGENCY, LOCAL AGENCY OR SCHOOL DISTRICT THAT IS REQUIRED TO BE REIMBURSED UNDER PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4) AND OTHER NONDISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES AND COST OR SAVINGS IN FEDERAL FUNDING TO THE STATE

Cost or savings to any state agency: None.

Cost or saving to any local agency or school district in which reimbursement is required under part 7 (commencing with section 17500) of Division 4 of the Government Code: None.

Other nondiscretionary costs or savings imposed on local agencies: There may be added costs or savings to local governments, such as sewage districts, for costs of transportation of sewage effluent or sewage sludge if that material must be transported a longer or shorter distance from the point of origin.

Costs or savings in federal funding to the state: None.

DETERMINATION THAT THE PROPOSED ACTION WILL NOT HAVE A SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

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EFFECTS ON HOUSING COSTS

The action would not have a significant effect on housing costs.

ALTERNATIVES CONSIDERED

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STATEMENT OF REASONS
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In drafting the proposed regulation, the Commission considered a variety of factors and sources of information. In addition the Commission received numerous comments from the general public and landowners in the Primary Zone of the Delta related to the Commission's adoption of its Land Use and Resource Management Plan; those comments were also considered.

Some of the factors considered include the following:

1. Soils and Hydrology. Due to unique soil conditions and hydrology, much of the Primary Zone is at constant risk of flooding and/or inundation. The Delta has been described as a mat of peat soil floating atop a large pool of water. Much of the Delta is below sea level and is protected by levees from daily inundation. Many areas of the Delta must be vigorously drained and pumped to keep the groundwater table below the surface of the land and to avoid flooding. This means most of the Primary Zone is subject to flooding if such pumping were to cease. There have been repeated levee breaks in the Delta, with two small islands flooding as recently as 1995. Levee

breaks can result from various causes including overtopping, erosion by floodwater, weak spots (beaver burrows, fallen tree root balls), and others. The Delta levees are also susceptible to failure due to seismic activity. In the case of a levee break or rising groundwater soon after placement of sewage effluent and/or sewage sludge, flood waters would carry off materials placed on the island's surface and contaminate significant other land and water areas.

2. **Drinking Water.** Approximately two-thirds of the population of the State of California receives at least some of its drinking water from the water exported from the Delta. There is a constant effort to maintain and/or to improve the water quality in the Delta waterways through control over urban nonpoint discharges, close monitoring of urban wastewater discharges into the Delta, testing and monitoring of pesticide discharges from agricultural drains, etc. Land application of sewage effluent and/or sewage sludge in the Primary Zone of the Delta poses risks of adverse impacts to water quality from the potential escape or release of sewage effluent, sewage sludge, or associated contaminants into the Delta water "pool".

3. **Potential Adverse Impacts on Delta Agricultural Lands.** Placement of sewage effluent and/or sewage sludge results in placement of materials containing salts, metals, and other contaminants on a site. These materials are not removed during secondary or tertiary treatment of sewage. These materials may build up over time resulting in cumulative adverse impacts to cultivated crops and wildlife habitat due to bioaccumulation, concentration of metals, and increased salinity.

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PROPOSED
DELTA PROTECTION COMMISSION REGULATION
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LOCATION OF NEW SEWAGE TREATMENT FACILITIES AND
AREAS FOR DISPOSAL OF SEWAGE EFFLUENT AND SEWAGE SLUDGE

Title 14, California Code of Regulations, Chapter 3:

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[Note: The Rio Vista project, as described in the adopted Final Environmental Impact Report for such project, and the Ironhouse Sanitary District use of Jersey Island for disposal of treated wastewater and biosolids are exempt from this policy.]

Authority: Public Resources Code section 29752.

Reference: Public Resources Code sections 29760, 29763, and 29763.5.